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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,204	03/02/2004	Kevin Keith Line	05918-361001	1992
26161	7590	10/22/2007	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			THOMAS, ALEXANDER S	
ART UNIT	PAPER NUMBER		1794	
MAIL DATE	DELIVERY MODE		10/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/791,204	LINE ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Alexander Thomas	1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 October 2007.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

2. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim requires that the fastener be formed of a single contiguous resin, however claim 1, upon which it depends, recites a magnetically attractable material secured to the base. Therefore, an ambiguity exists.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 14, 15 and 24-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Billarant 2004/0128804. The reference discloses a touch fastener

comprising a base 2 with a central portion and lateral selvedges, a magnetically attractable material 5 secured to central portion and an array of fasteners 3 extending from the central portion wherein the selvedges have a thickness within the claimed range; see figure 1, [0014], [0015] and [0038] for example. The central portion of the fastener in the reference will inherently be stiffer than the selvedges in view of the presence of the resin 5 and the fasteners 3.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 16-23, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Billarant 2004/0128804. The reference discloses a touch fastener comprising a base 2 with a central portion and lateral selvedges, a magnetically attractable material 5 secured to central portion and an array of fastener elements 3 extending from the central portion wherein the selvedges have a thickness within the claimed range and therefore have a flexibility within the claimed range; see figure 1, [0014], [0015] and [0038] for example. The central portion of the fastener in the reference will inherently be stiffer than the selvedges in view of the presence of the resin 5 and the fasteners 3. Concerning claim 2, it would have been obvious to one of

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ordinary skill in the art to form the fastener in the reference from one contiguous resin since it is within the general skill of a worker in the art to make plural parts unitary as a matter of obvious engineering choice. Concerning the form of the magnetically attractable material, the examiner takes official notice of the fact that metal wires, strips, particles are all well-known forms of magnetically attractable materials that have been used in the instantly claimed type of seat fastener. It would have been obvious to one of ordinary skill in the art to use any of the well-known forms of magnetically attractable material as the magnetically attractable material in the product of the reference.

Regarding claims 20 and 21, it would have been obvious to one of ordinary skill in the art to adjust the size of the selvedges to any particular size since such a modification would have involved a mere change in the size of a component and a change in size is generally recognized as being within the level of ordinary skill in the art. With respect to claim 23, the reference discloses such a structure; see [0033]. Regarding claims 29 and 30, it would have been obvious to one of ordinary skill in the art to adjust the density and height of the fastener elements to any particular amount to provide desired holding properties for a particular end use.

7. Claims 3-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Billarant 2004/0128804 alone or in view of Hatch 4,726,975. The primary reference discloses a touch fastener comprising a base 2 with a central portion and lateral selvedges, a magnetically attractable material 5 secured to central portion and an array of fastener elements 3 extending from the central portion wherein the selvedges have a

thickness within the claimed range and therefore have a flexibility within the claimed range; see figure 1, [0014], [0015] and [0038] for example. The central portion of the fastener in the primary reference will inherently be stiffer than the selvedges in view of the presence of the resin 5 and the fasteners 3. It would have been obvious to one of ordinary skill in the art to form the fastener in the reference from more than one piece since it is within the general skill of a worker in the art to make a unitary part from a plurality of parts as a matter of obvious engineering choice. In any event Hatch discloses the claimed structure wherein the fastener elements are attached via a hot melt adhesive to the base layer; see the figures. It would have been obvious to one of ordinary skill in the art to form the product of the primary reference from separate pieces as disclosed in the secondary reference as a matter of obvious engineering choice.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Thomas/  
Primary Examiner  
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